



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DARREN JOHN GUILLOT
DIRECTOR, FIELD COLLECTION

FROM: Dretha Barham */s/ Dretha Barham*
Director, Headquarters Collection Policy

SUBJECT: Interim Guidance Memorandum for Thrift Savings Plan Levies

The purpose of this memorandum is to clarify guidance on the procedures for issuing a levy on a taxpayer's Thrift Savings Plan (TSP) account. In January 2013, Congress amended title 5 of the United States Code, to clarify that accounts in the Thrift Savings Fund are subject to certain Federal tax levies, see 5 U.S.C. 8437(e)(3). On September 10, 2014, the TSP published final regulations in the Federal Register delineating when the TSP will honor IRS tax levies, see 79 FR 53603 (Sept. 10, 2014). These guidelines are effective immediately and will be incorporated into the Internal Revenue Manual (IRM) section 5.11.6.2.1, Thrift Savings Plan.

IRM 5.11.6.2.1

- (1) Federal employees may contribute to Thrift Savings Plan (TSP) accounts. Unlike levies on employer and self-sponsored retirement accounts, which only reach the taxpayer's present rights under the plan, the IRS can seize the balance in vested TSP accounts pursuant to 5 U.S.C. 8437(e)(3), a special statutory provision, which authorizes turnover of funds in TSP accounts to the IRS pursuant to IRS levies. The levy will attach to any TSP account that is vested, or will become vested within 30 days of the date the TSP receives the levy if the participant were to remain in Government service. The Federal Retirement Thrift Investment Board (FRTIB) has issued regulations governing TSP levies at 79 FR 53603 (Sept. 10, 2014).

- (2) A taxpayer might request the Service to levy his/her TSP account since the taxpayer might not be otherwise able to access the funds, or, if the taxpayer is no longer employed by the Government, the taxpayer might be seeking to avoid paying a 10 percent additional tax on early retirement plan withdrawals. Do not levy on a TSP account at the request of the taxpayer. Instead, follow the guidelines set forth below.
- (3) The determination to levy on a TSP account should be treated in the same way as a levy on a private pension or retirement plan or IRA. Follow the procedures set forth in IRM 5.11.6.2(4) through (7) to determine whether to levy on the taxpayer's TSP account.
- (4) The notice of levy, Form 668-A, states that it does not attach to funds in pension or retirement plans, unless it is signed in the specified block. When levying on TSP accounts, sign the notice of levy in the block to the left of "Total Amount Due."
- (5) Have the SB/SE Area Director, Field Collection approve the notice of levy by signing the form as the Service Representative or see [IRM 5.11.1.3.5](#), Managerial Approval, for methods to secure managerial approval.
- (6) The levy must be issued in the name of the participant only.
- (7) The levy must expressly refer to the "Thrift Savings Plan."
- (8) The levy must require the payment of a stated dollar amount from the TSP participant's account, up to the entire amount of the vested account balance. The levy may not request a payment at a specified date in the future nor may it request a series of payments. The levy cannot designate a specific TSP fund, source of contributions, or balance from which the payment or portions of the payment shall be made.
- (9) Before issuing a levy on a non-liable spouse in a community property state, consult with Advisory or Counsel to determine if the state community property laws allow the levy. If the levy is allowed, request the assistance of Counsel to draft the levy to ensure the levy will not be dishonored by the TSP because it was not issued in the name of the participant only.
- (10) All levies on TSP accounts should be on Form 668-A(c)(DO) and should be mailed to the following address: Thrift Savings Plan, Attn: TSP Legal Processing Unit, P.O. Box 4570, Fairfax, VA 22038-9998. If immediate delivery of the levy is necessary, the fax number, and the address for overnight delivery of IRS levies can be found at <http://www.tsp.gov> under Contact TSP page. The levy must be received by the TSP offices designated above no later than 30 days after the date on the levy form.
- (11) After receipt of the levy, the TSP will mail a decision letter to all parties containing the following information:
 - A determination regarding whether the levy is qualifying;
 - If the qualifying levy requires payment, the letter will provide the estimated payment amount and anticipated payment date

- (12) Payment pursuant to a qualifying levy will be made 30 days after the TSP decision letter. The payment is taxable to the participant and subject to federal income tax withholding.

Note: Once the levy is paid, the funds cannot be returned to the TSP account.

Internal Revenue Manual (IRM) 5.11.6.2.1, Notice of Levy in Special Cases, will be updated to incorporate these guidelines.

If you have any questions, please contact me at 202-317-3504, Deborah O’Camb, Senior Program Manager, Headquarters Collection Policy, at 321-441-2415, or have a member of your staff contact James Maslanka, Senior Program Analyst, Headquarters Collection Policy, at 630-493-5448. Territory personnel should direct any questions through their management staff to the appropriate Area contact.

cc: Thomas D. Mathews, Director, Headquarters Collection
DelRey Jenkins, Director, Campus Collection
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